

Appeal Rights

Purpose:

This instruction sets forth the policy regarding appeal rights.

Scope:

Sponsors participating in the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP).

Description:

Appeal procedures are to be made available in writing to all school food authorities upon request and will be included in all correspondence from the State Agency which meets the following, as outlined in the Federal Regulations 210.18 (q) which states:

Except for FNS conducted reviews authorized under 210.30(d)(2), each State Agency shall establish an appeal procedure to be followed by a school food authority requesting review of a denial of all or part of the Claim for Reimbursement or withholding payment arising from administrative or follow-up review activity conducted by the State Agency under 210.18. Administrative appeals are not available for any other program action.

APPEAL PROCEDURES FOR THE STATE OF INDIANA:

1. A written request for review must be postmarked within 15 (fifteen) calendar day of the date the appellant receives the notice of the denial of all or part of the claim for reimbursement or withholding of payment, and the State Agency shall acknowledge the receipt of the request for appeal within 10 (ten) calendar days. Appeals must be submitted to the Indiana Department of Education, Division of School and Community Nutrition Programs, 151 W. Ohio St., Indianapolis, IN 46204, no later than 15 fifteen calendar days from the date the appellant receives the notice of action;
2. The appellant may refute the action specified in the notice in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official no later than 30 (thirty) calendar days after the appellant receives the notice. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review.

Failure of the appellant school food authority's representative to appear at a scheduled hearing shall constitute the appellant school food authority's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State Agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official;

3. If a hearing is requested, the appellant and the State Agency shall be provided with at least 10 (ten) calendar days advance written notice of the time and place by certified mail, return receipt requested, of the time, date, and place of the hearing;

4. Any information on which the State Agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review;

5. The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provision of this section;

6. The review official shall make a determination based on information provided by the State Agency and the appellant, and on program regulations;

7. Within 60 (sixty) calendar days of the State Agency's receipt of the request for review, by written notice, sent by certified mail, return receipt requested, the review official shall inform the State Agency and the appellant of the determination of the review official. The final determination shall take effect upon receipt of the written notice of the final decision by the school food authority;

8. The State Agency's action shall remain in effect during the appeal process; and

9. The determination by the state review official is the final administrative determination to be afforded to the appellant.

SOURCE: 7 CFR PART 210.